

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE COMMISSIONER OF COMMERCE

In the Matter of the
Real Estate Broker License
of Betsy Lynn Krutzig

FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION

The above-entitled matter came on for a prehearing conference before Administrative Law Judge Allan W. Klein commencing at 1:30 p.m. on September 8, 1999, at the Office of Administrative Hearings in Minneapolis.

Michael J. Tostengard, Assistant Attorney General, 1200 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101-2130, appeared on behalf of the Minnesota Department of Commerce ("Department"). Respondent did not appear at the prehearing conference. The record closed on September 8.

NOTICE

This Report is a recommendation, not a final decision. The Commissioner will make the final decision after a review of the record. The Commissioner may adopt, reject or modify the Findings of Fact, Conclusions and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present arguments to the Commissioner. Parties should contact Commissioner Steve Minn, 133 East Seventh Street, St. Paul, Minnesota 55101.

STATEMENT OF ISSUE

Did Respondent convert money belonging to Robert Haggerty to her own use, thus violating Minn. Stat. § 82.27, subd. 1b (1998)?

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On July 21, 1999, the Commissioner of Commerce issued a Notice of and Order for Hearing and Notice of Prehearing Conference, Order to Show Cause and Statement of Charges in this matter.

2. On July 27, 1999, a copy of the Notice and Order for Hearing and Notice of Prehearing Conference, Order to Show Cause and Statement of Charges were sent via certified mail to Respondent at her last known address pursuant to Minn. Stat. § 45.028, subd. 2 (1998).

3. The Notice of and Order for Hearing and Notice of Prehearing Conference, Order to Show Cause and Statement of Charges contained the following statement:

If Respondent fails to attend or otherwise appear at any prehearing conference or settlement conference or the hearing in this matter or fails to comply with any interlocutory order of the Judge after having been served with a copy of this Order, Respondent shall be deemed in default and the allegations or issues set forth herein may be deemed proved and Respondent's real estate broker and salesperson licenses may be revoked or suspended, Respondent may be censured and/or a civil penalty may be imposed against Respondent without further proceedings.

A PARTY INTENDING TO APPEAR AT THE HEARING MUST FILE THE ENCLOSED NOTICE OF APPEARANCE WITH THE ABOVE-NAMED ADMINISTRATIVE LAW JUDGE WITHIN TWENTY (20) DAYS OF THE DATE OF SERVICE OF THIS ORDER.

4. Respondent did not appear at the September 8, 1999 prehearing conference, made no prehearing request for continuance, nor did she file a Notice of Appearance.

5. The allegations of the Notice of and Order for Hearing and Notice of Prehearing Conference, Order to Show Cause and Statement of Charges are deemed proved and incorporated into these Findings by reference.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. The Commissioner of Commerce and the Administrative Law Judge has subject matter jurisdiction herein pursuant to Minn. Stat. §§ 45.027, 82.27, and 14.50 (1998).

2. Respondent was given timely and proper notice of the prehearing conference in this matter.

3. The Department has complied with all relevant substantive and procedural requirements of statute and rule.

4. Under Minn. Rule pt. 1400.6000, Respondent is in default as a result of her failure to appear at the scheduled prehearing conference.

5. Under Minn. Rule pt. 1400.6000, the allegations and the issues set out in the Notice of and Order for Hearing and Notice of Prehearing Conference, Order to Show Cause and Statement of Charges may be taken as true or deemed proved when a party defaults.

6. Based upon the facts set out in the Notice of and Order for Hearing and Notice of Prehearing Conference, Order to Show Cause and Statement of Charges, Respondent has violated Minn. Stat. § 82.27, subd. 1b (1998).

7. An Order is in the public interest.

Based upon the foregoing Conclusions, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED that action be taken against Respondent and that the Commissioner consider civil penalties.

Dated this 14th day of September, 1999.

s/ Allan W. Klein

ALLAN W. KLEIN

Administrative Law Judge

Reported: Default

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the Agency is required to serve its final decision upon each party and the Administrative Law Judge by first-class mail.